



Department of Environmental Quality **Supplemental Advisory** Regarding Part 201 Requirements Applicable to Property Contaminated by Dioxin

All locations where dioxin concentrations exceed the residential cleanup requirements of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended (NREPA), are a "facility" that is regulated under Part 201. Based on currently available data, the Department of Environmental Quality (DEQ) believes that it is appropriate to conclude that all property within the 100-year flood plain downstream of the City of Midland, that is frequently flooded by the Tittabawassee River, is a facility. Some important requirements of Part 201 that apply to owners and operators of property that is a facility are described below.

Disclosure that property is a facility: Section 20116 of the NREPA requires that a person who has knowledge or information that his or her property is a facility must disclose to any person acquiring an interest in the property the general nature and extent of contamination. Data documenting dioxin contamination above residential cleanup requirements are not available for all properties in the Tittabawassee River flood plain. However, the data from sampling conducted to date by the DEQ show contamination above residential criteria on virtually all properties within the 100-year flood plain that are frequently flooded. As a result, owners and operators of all properties that are frequently flooded are expected to disclose available information about dioxin contamination in the area in order to comply with Section 20116 of the NREPA, and to assure all potential owners learn about the existence of dioxin contamination. This will help reduce health and environmental risks that would otherwise result from the actions of uninformed property owners and operators. A person who has more specific information about his or her property must include that information in their disclosure. Property owners and operators may choose

to conduct sampling on their property to supplement available data and information, and refine their disclosure obligations. There is a possibility that property at higher elevations within the general outline of the 100-year flood plain may not be a facility. However, in making a decision about whether higher areas are likely to be contaminated, the owner or operator must consider whether soil from lower areas in the flood plain has been relocated onto the higher elevation area, such that contamination is now present. If you need assistance in determining how the disclosure requirements apply to your property, contact the DEQ (see below for contact information).

"Due Care" responsibilities: Section 20107a of the NREPA imposes certain responsibilities on persons who own or operate contaminated property in order to assure that the use of that property occurs in a manner that protects public health and safety. The legal obligations for "Due Care" are limited when the contamination results from migration, as is the case with dioxin contamination on land in the Tittabawassee River flood plain. However, even if contamination is present as a result of migration, the landowner, business owner, or other person who has "Due Care" obligations must not exacerbate the existing contamination. In general, this means following the cautions and directives in the DEQ Soil Movement Advisory.

Restrictions on relocation of contaminated soil: See DEQ Soil Movement Advisory for details on these regulatory requirements.

For more information
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